This Page Is Inserted by IFW Operations and is not a part of the Official Record

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

As rescanning documents will not correct images, please do not report the images to the Image Problem Mailbox.



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Vignia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,695 12/14/2001		Folker Lieb	Bayer 7725 9962.3-HCL/100717-5	
75	90 09/17/2003			
Howard C. Lee			EXAMINER	
Norris McLaughlin & Marcus 30th Floor 220 East 42nd Street New York, NY 10017			TRUONG, TAMTHOM NGO	
			ART UNIT	PAPER NUMBER
•			1624	77
			DATE MAILED: 09/17/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) Lies ETAL Lies ETA	1		
Office Action Summary — The MAILING DATE This communication Appears In the cover sheet with the correspondence Address Addre		Applicati n No.	Applicant(s)
Tamthom N. Truong 1624 The MAILING DATE fthis communication appears n the cover sheet with the correspondenc address address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. If the period for reply specified above is least hant brity (30) cays, a reply within the statisticy military in the period for reply specified above is least hant brity (30) cays, a reply within the statisticy military in the period for reply specified above is least hant brity (30) cays, a reply within the statisticy military in the period for reply specified above is least hant brity (30) cays, a reply within the statisticy military in the period for reply specified above is least hant brity (30) cays, a reply within the statisticy military in the period for reply specified above is least hant brity (30) cays, a reply within the statisticy military in the period of the communication. If the period for reply specified above is least hant brity (30) cays, a reply within the statisticy military in the statistic or reply specified above is least hant brity (30) cays, a reply within the statistic provided in the communication. If the period for reply specified above is least hant brity (30) cays, a reply within the statistic provided in the communication. If the period of reply specified above is least hant brity (30) cays, a reply be timely fled If the statistic reply specified above is least hant brity (30) cays, a reply be timely fled If the statistic reply specified above is least hant brity (30) cays, a reply be timely fled If the statistic reply specified above is least hant brity (30) cays, and the statistic reply in the cath of cath and the statistic reply in the cath of cath and the statistic reply in the cath of cath and the statistic reply in the cath of cath and the statistic reply in the cath of cath and the statistic reply in the cath of cath or deciration is objected to by the Examiner. If the proposed d	·	10/017,695	LIEB ET AL.
- The MAILING DATE If this communication appears in the cover sheet with the correspondence address—Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Estanciavos of time may be a smalled under the provisions of 3 CPR 1.138(a), in no event, however, may a reply be timely filled If the peaced for may is specified above is less than 1879 (\$0) (a), as, a reply within the adultury minimum of thisty (30) (says will be considered freely). If the peaced for may is specified above is less than 1879 (\$0) (a), as, a reply within the adultury minimum of thisty (30) (says will be considered freely). If the peaced for may is specified above is less than 1879 (\$0) (a), as, a reply within the adultury minimum of thisty (30) (says will be considered freely). If the peaced for may is specified above is less than 1879 (\$0) (a), as a reply within the adultury minimum of thisty (30) (says will be considered freely). If the peaced for may is specified above is less than 1879 (\$0) (a), as a reply within the adultury minimum of thisty (30) (says will be considered freely). If the peaced freely is specified above is less than 1879 (\$0) (says will be considered freely). If the peaced freely is specified above is less than 1879 (\$0) (says will be considered freely). If the peaced freely is specified above is less than 1879 (\$0) (says will be considered freely). If the peaced reply specified above is less than 1879 (\$0) (says will be considered freely). If the peaced reply specified above is less than 1879 (\$0) (says will be considered freely). If the peaced reply specified above is less than 1879 (\$0) (\$0) (\$0) (\$0) (\$0) (\$0) (\$0) (\$0)	Office Action Summary	Examiner	Art Unit
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of times may be available under the provisions of 37 CFR 1.35(a). In no event, however, may a rapty be timely filed - Extensions of times may be available under the provisions of 37 CFR 1.35(a). In no event, however, may a rapty be timely filed - Extensions of times may be available under the provisions of 37 CFR 1.35(a). In no event, however, may a rapty be timely filed - If NO period for rapty is secified above, he maximum statutory prefet will apply and vill aspine SIX (a) MOXFTS from the mailing oals of this statutory inflamment of thinty (30) days will be considered timely. - If NO period for rapty is specified above, he maximum statutory prefet will apply and vill aspine SIX (a) MOXFTS from the mailing oals of this communication. - Extension of the second by the Officia to the three mailing date of this communication, even if timely fised, may reduce any examined plates term adjustment. See 37 CFR 1.704(b). - Extension of the second of the s			<u> </u>
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Ethanismo to the mary be available under the provision of 3°CFR 1.75(6), in no event, however, may a reply be timely filled Ethanismo of the provision of the priority documents have been received. 2. Certified copies of the priority documents have b	· ·	ears n the cover sheet with the	correspondenc address
If NO period for reipily is papelled above, the mashrum stantary period will apply and will apply reipil (NOTHES from the milling date of this communication. Failunts for extended period for reipy will, by fattary will the set or extended period for reipy will, by fattary will be cause the application to become ABANDONED (18 U.S.C. § 1150). Part Pa	A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.	6(a). In no event, however, may a reply be t	imely filed
1) Mesponsive to communication(s) filed on 12-14-01 (Pulcin Month) 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-5, and 22-26 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. 5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) is/are objected to by the Examiner. 10) The proposed drawing correction filed on is/are: a) accepted or b) objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 08/945.664. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies on the ceived. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has bee	 If NO period for reply is specified above, the maximum statutory period w Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing 	ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDON	n the mailing date of this communication. ED (35 U.S.C. § 133).
2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-5 and 22-26 is/are pending in the application. 4a) Of the above claim(s) is/are enjoyed is/are pending in the application. 5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: all accepted or blood by be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: all approved blood disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All blood Some * c) None of: Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 08/945.664. 3. Copies of the ortified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for domestic priority under 35 U.S.C. §§ 19(0) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) Interview Summary (PTO-413) Paper No(s). Interview Summary (PTO-4	Status	(Q 0 - 1-	14)
3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ⊠ Claim(s) 1-5, and 22-26 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) is/are allowed. 6) ☒ Claim(s) is/are allowed. 6) ☒ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction and/or election requirement. Application Papers 9) □ The specification is objected to by the Examiner. 100 □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) □ The proposed drawing correction filed on is: a) □ approved b) □ disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) □ The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☒ All b) □ Some * c) □ None of: □ Certified copies of the priority documents have been received. 2 ☒ Certified copies of the priority documents have been received in Application No. 08/945,664. 3 □ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) □ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) □ The translation of the foreign language provisional application has been received. 15) □ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(e) 10 ☑ Notice of References Cited (PT			rnd,
Closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)	, <u> </u>		
A) Claim(s) 1-5. and 22-26 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 7) Claim(s) is/are allowed. 7) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 08/945.664 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121. Attachment(s)			
4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) is/are allowed. 6) ☒ Claim(s) is/are allowed. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction and/or election requirement. Application Papers 9) □ The specification is objected to by the Examiner. 10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) □ The proposed drawing correction filed on is: a) □ approved b) □ disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) □ The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☒ All b) □ Some * c) □ None of: 1. □ Certified copies of the priority documents have been received. 2. ☒ Certified copies of the priority documents have been received in Application No. 08/945.664. 3. □ Copies of the certified copies of the priority documents have been received in this National Stage application from the international Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) □ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) □ The translation of the foreign language provisional application has been received. 15) □ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 10 Notice of References Cited (PTO-892) 21 ○ Notice of Draftsperson's Patent Drawing Review (PTO-948)			
5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some *c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 08/945.664. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 10 Interview Summary (PTO-413) Paper No(s)	4)⊠ Claim(s) <u>1-5, and 22-26</u> is/are pending in the	application.	•
6) Claim(s) 1-5, and 22-26 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some *c) None of: 1.	4a) Of the above claim(s) is/are withdraw	n from consideration.	
7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1.	5) Claim(s) is/are allowed.		
8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 08/945,664. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) Interview Summary (PTO-413) Paper No(s)			
Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 08/945.664. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §\$ 120 and/or 121. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Informal Patent Application (PTO-152)			
9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 08/945,664. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121. Attachment(s) 1) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)		election requirement.	
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1.			
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 08/945,664. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)	,— .		aminer
11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 08/945,664. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Informal Patent Application (PTO-152)			•
If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some col None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 08/945,664. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)			
Priority under 35 U.S.C. §§ 119 and 120 13)			•
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 08/945,664. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)			
a) \[All \] b) \[Some * c) \[None of: 1. \[Certified copies of the priority documents have been received. 2. \[Certified copies of the priority documents have been received in Application No. \(\textit{08/945,664} \). 3. \[Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) \[Acknowledgment is made of a claim for domestic priority under 35 U.S.C. \[\} 119(e) (to a provisional application). a) \[The translation of the foreign language provisional application has been received. 15) \[Acknowledgment is made of a claim for domestic priority under 35 U.S.C. \[\} \] 120 and/or 121. Attachment(s) 1) \[Notice of References Cited (PTO-892) 2) \[Notice of Draftsperson's Patent Drawing Review (PTO-948) 1 \[Notice of Informal Patent Application (PTO-152) \]	Priority under 35 U.S.C. §§ 119 and 120		
1. ☐ Certified copies of the priority documents have been received. 2. ☑ Certified copies of the priority documents have been received in Application No. <u>08/945,664</u> . 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) ☐ The translation of the foreign language provisional application has been received. 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) ☑ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 1 ☐ Interview Summary (PTO-413) Paper No(s)	13)⊠ Acknowledgment is made of a claim for foreign	priority under 35 U.S.C. § 119(a)-(d) or (f).
2. ☐ Certified copies of the priority documents have been received in Application No. <u>08/945,664</u> . 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) ☐ The translation of the foreign language provisional application has been received. 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) ☐ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 1 ☐ Interview Summary (PTO-413) Paper No(s)	a)⊠ All b)□ Some * c)□ None of:		
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)	1. Certified copies of the priority documents	s have been received.	
application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) 1) Notice of Informal Patent Application (PTO-152)	2. Certified copies of the priority documents	have been received in Applica	tion No. <u>08/945,664</u> .
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 10 Interview Summary (PTO-413) Paper No(s) 11 Notice of Informal Patent Application (PTO-152)	application from the International Bur	eau (PCT Rule 17.2(a)).	-
a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152)		·	
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152)	a) The translation of the foreign language pro-	visional application has been re	ceived.
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152)		5 p. 101 kg and 01 00 01010. 33 12	
	1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal	

Application/Control Number: 10/017,695

Art Unit: 1624

DETAILED ACTION

Applicant's preliminary amendment of 12-14-01 has been entered. Claims 6-21 have been cancelled. Thus, only claims 1-5 remains for consideration along with new claims 22-26.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 1. Claims 1-5, and 22-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following reasons apply:
 - a. Claims 1-5 recites limitations of "D", "A and D" which do not seem to bear a relationship to formulae (1) and (3). Deletion of said limitations is suggested.
 - b. Claims 2-4 recites variables $R^{23} R^{20}$, which are related to "A and D", but not to formulae (1) and (3). Deletion of said variables is suggested.
 - c. Claim 2 also lacks antecedent basis for reciting "hetaryl- C_1 - C_6 -alkyl" in the definition of R^1 , which is not recited in claim 1. In claim 1, the definition of R^1 includes "hetaryloxyalkyl", which is not the same as "hetaryl- C_1 - C_6 -alkyl".
 - d. Claim 5 recites processes (A), (B), and (E) (M) which are directed the processes of making compounds of other (non-elected) groups. Deletion of said processes is suggested.



Art Unit: 1624

e. In claim 1, the word "Compounds" is in plural form, and reads on mixtures.

Accordingly, changing said word to "A compound" would overcome the rejection.

Double Patenting

The **nonstatutory double patenting** rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

- 2. Claims 1-4, and 24-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 10 and 11 of U.S. Patent No. 6,380,246. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant formula I overlaps with the formula I of US'246 having the following substituents:
 - a. X, Y, and Z have the same definitions as those recited in the instant claim 1;
 - b. Het represents formula (3), which is a thiophenone;
 - c. A, B and G have the same definitions as those recited in the instant claim 1;
 - d. R^1 , R^2 , R^4 - R^7 basically have the same scope as those recited in the instant claim 1;



Art Unit: 1624

e. R³ is optionally substituted alkyl, phenyl or benzyl.

Claims 10 and 11 of US'246 overlaps with the instant claims 24-26 because they all recite method of combating pests and weeds as well as a process of preparing a pesticidal or herbicidal composition. The instant formula I differs from the one of US'246 by **not** having Het as other heterocycles represented by formulae (1), (2), (4)-(6) recited in claim 1 of US'246. However, the instant formula I allows R³ to also be alkylamino, dialkylamino, alkylthio, alkenylthio, or cycloalkylthio, each of which is optionally substituted by halogen.

- 3. Claims 1-4, and 22-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5, 10 and 11 of U.S. Patent No. 5,945,444. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant formula I overlaps with the formula I of US'444, having the following substituents:
 - a. X represents a halogen;
 - b. Y and Z, independently represents an alkyl group or a halogen;
 - c. A and B together with the carbon atom, to which they are bonded, form a saturated carbocycle;
 - d. G represents (a) hydrogen, (b) $-C(=O)R^1$, (c) $-C(=L)-M-R^2$.

The instant formula I differs from the one of US'444 by **not** having X as an alkyl, alkoxy or halogenoalkyl group as well as **not** having Y, or Z as hydrogen, alkoxy, or halogenoalkyl groups. However, the instant formula I allows G to also be $-SO_2-R^3$, $-P(=L)-R^4R^5$, E (metal ion equivalent, or ammonium ion), $-C(=L)-NR^6R^7$.

Application/Control Number: 10/017,695

Art Unit: 1624

- 4. Claims 1-4, and 22-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 7, and 8 of U.S. Patent No. 5,262,383. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant formula I overlaps with the formula I of US'383 having the following substituents:
 - a. D represents sulphur;
 - b. X represents halogen;
 - c. Y and Z, independently represents an alkyl group, or a halogen;
 - d. A, B, G and other variables practically have the same scope.
 - e. R^1 , and R^3 - R^7 basically have the same scope as those claimed herein.
 - f. R² is optionally substituted alkyl, alkenyl, alkoxyalkyl, polyalkoxyalkyl, phenyl, or benzyl.

The instant formula I differs from the one of US'383 by **not** having a furanone ring (i.e., D in US'383 as oxygen) as well as **not** having X, Y and Z represent other groups (i.e., hydrogen, alkoxy, halogenoalkyl). However, the instant formula I also allows R² to be an optionally substituted cycloalkyl group.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 703-305-4485. The examiner can normally be reached on M-F (5:00-12:30) & every Saturday morning (starting from 4-7-03).



Art Unit: 1624

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached on 703-308-4716. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

T. Truong

September 16, 2003